APPENDIX "A"

Applicable Florida Statutes

501.04 Powers of milk commission.—The milk commission is declared to be an instrumentality of the state for the purpose of attaining the ends recited in the legislative findings, and may:

(1) Supervise and regulate the entire milk industry of the state, including the production, transportation, manufacture, storage, distribution, delivery and sale of milk, cream and milk products, in any market established by the commission in the state; provided, however, that nothing contained in this chapter shall be construed to abrogate or affect the status, force or operation of any provision of any law relating to public health or sanitation, the purity of food or food products, (the public health law, the public service law, the state sanitary code), milk products law, except as provided for in §501.09(4), state ice cream law, or any local health ordinance or regulation; and provided, further, that nothing in this chapter shall give the commission power to make rules or regulations prohibiting the giving away gratis of milk or milk products in cases of charity.

(2) Investigate all matters pertaining to the production, processing, storage, transportation, distribution and sale of milk in the state.

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(9) Make, adopt and enforce all rules, regulations and orders necessary to carry out the purpose of this chapter; hold hearings after reasonable notice thereof has been given; receive sworn testimony and evidence at hearings as to the reasonableness of any order, rule or regulation of the commission; reasonably classify and establish definite market areas, and provide different

rules, regulations and charges therefor; establish health and sanitary requirements. The commission after public hearing and investigation may fix the prices to be paid producers by distributors, milk dealers or producer-distributors in any market or markets; may fix the minimum and maximum wholesale and retail prices to be charged for milk in any market, and may also fix different prices for different grades of milk; may establish the grades of milk; may establish reasonable rules and regulations for fair competition, and fix reasonable rules and regulations for the conduct of the commission's business and for the regulation of its employees; may require reasonable examinations of license applicants to test their general fitness to engage in any business defined in this chapter; may establish rules and regulations for hearings in keeping with the procedure herein authorized; may revoke, suspend or refuse to issue the license of any person hereunder for the violation of any rule, regulation or order of the commission, after due notice and a fair hearing as herein provided; may provide for the collection of license fees authorized by this chapter, and may regulate all matters reasonably incidental to the general or specific powers herein recited; may provide for deputy administrators in any market area created by the commission, with such authority as may be designated by the commission, including the power to investigate complaints, report violations of the commission's orders, and to have such other powers reasonable or incidental thereto, including the right to administer oaths, make investigations, conduct hearings when ordered by the commission, and on due notice to take testimony in connection with investigations of complaints, and to cause the same to be stenographically transcribed and reported and transmitted to the commission for final action thereon, together with such other authority as the commission may designate in keeping with the general powers and purposes created under this chapter.

501.05 Rules and orders of milk commission.—

(3) The relationship between a producer and a distributor, under which milk produced by the producer is regularly delivered to and accepted by the distributor, when once established, shall not be terminated either by the producer or by the distributor without just cause therefor, and the approval of the commission. Just cause will be considered by the commission as any cause deemed just by a prudent and reasonable man.

Arbitrary, capricious and vindictive reasons will not be considered as just cause for any such termination.

(4) The commission shall set a standard date as the date from which not less than ninety days written notice in writing and in advance must be given by the producer or the distributor involved to the other before any such theretofore established relationship may be terminated; unless such notice is given, such relationship will not be terminated, even though just cause exists for termination, unless just cause exists excusing the failure to give such notice.

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501.09 Issuance, revocation, etc., of licenses to milk dealers.—

(3) (a) That a milk dealer has rejected, without reasonable cause, any milk delivered to and accepted by the milk dealer from a producer delivered by or on behalf of the producer in ordinary continuance of a previous course of dealing, or that a milk dealer has rejected without reasonable cause, or has rejected without reasonable advance notice, any milk tendered or offered for delivery to the milk dealer by or on behalf of a producer in ordinary continuance of a previous course of dealing. It is intended hereby to provide and require that a milk dealer shall not reject or refuse to accept any milk tendered or offered

for delivery by or on behalf of a producer in ordinary continuance of a previous course of dealing unless there exists reasonable cause for the rejection or refusal to accept such milk and unless the milk dealer has also given such advance notice as may be reasonable under the circumstances of intention to reject or refuse to accept such milk.

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(4) . . . On or before the tenth day of each month each distributor shall make a report under oath to the commission upon such form and containing such information as the commission shall prescribe, but each report shall specifically, and in addition to all other information which may be required by the commission, contain and set forth:

(a) The number of gallons of milk produced; the number of gallons of milk received; and the number of gallons of milk distributed by such distributor during the preceding calendar month; and

(b) The name and address of each producer or any other person from whom the distributor purchased milk for distribution during the preceding calendar month and the quantity of milk purchased from each producer or other person, and the price per gallon paid to each producer or other person for milk so purchased, and the number of gallons purchased by such distributor if such distributor be also a producer.

For the privilege of continuing in or engaging in the business of distributing milk or acting as a distributor under the provisions of this chapter, there is imposed upon every distributor a tax in an amount equal to fifteen-one hundredths of one cent upon each gallon of milk distributed by each distributor during each calendar month. The amount of such tax shall be remitted by each distributor to the commission at the time that

the monthly reports are required to be filed by the distributor with the commission as provided by this chapter.

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Any person subject to the provisions of this chapter failing or refusing to furnish any return required to be made or failing or refusing to furnish a supplemental return or other data required by the commission or who shall violate any of the provisions of this chapter, including failure to secure a license or who shall violate any valid rule or regulation of the commission, or who shall secure a license upon false or fraudulent application, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding five hundred dollars or by imprisonment in the county jail for not exceeding six months and each offense and each day of violation shall constitute a separate offense.

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(6) For the privilege of continuing in or engaging in the business of producing milk, or acting as a dairy farmer under the provisions of this law, there is hereby imposed upon every dairy farmer a tax in an amount equal to fifteen-one hundredths of one cent upon each gallon of class 1 milk produced, as defined by the commission, by each such dairy farmer, and delivered to the platform of the distributor or producer-distributor during each calendar month. The amount of such tax shall be deducted by the distributor and the producer-distributor from the moneys due to the dairy farmer, and by such distributor or producer-distributor remitted to the commission at the time that the monthly reports are required to be filed by the distributors or producer-distributors with the commission, as provided by this chapter, and in the event the dairy farmer acts as his own distributor he shall remit the said tax to the commission at the time that the monthly reports are required to be filed by the distributor and producer-distributor with the commission, as provided by this chapter.

501.13. Order by commission fixing price of milk.—

(4) The commission after making such investigation either on its own initiative or on complaint of a representative group of producers supplying a particular dealer or a particular market may fix by official order the prices to be paid by milk dealers to producers and others for milk and its various grades and uses. The order of the commission with respect to the prices to be paid to the producers and others shall apply to the locality or zone in which the milk is produced, the market or markets in which the milk so produced is sold, and may vary in different localities or markets according to varying uses and different conditions. Each order may classify milk by forms, classes, grades or uses as the commission may deem advisable and may specify the price therefor. A violation of this sub-division shall render such persons offending this chapter specifically subject to the provisions of §501.08.

(5) After the commission has fixed prices to be charged or paid for milk whether by class, grade or use, it is unlawful for a milk dealer to sell or buy or offer to sell or buy milk at any price less or more than such price or prices as shall be applicable to the particular transaction and no method or device shall be lawful whereby milk is bought or sold or offered to be bought or sold at a price less or more than such price or prices as shall be applicable to the particular transaction, whether by any discount, or rebate or free service, or advertising allowance or a combined price for such milk together with another commodity or commodities, or service or services, which is less or more than the aggregate of the prices for milk and the price or prices for such other commodity or commodities, or service or services, when sold or offered for sale separately or otherwise.

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(8) It is the intent of the legislature that the instant, whenever that may be, that the handling within the same by a milk dealer of milk produced outside of the state becomes a subject

of regulation by the state, in the exercise of its police powers, the restrictions set forth in this chapter respecting such milk so produced shall apply and the powers conferred by this chapter on the commission shall attach. After any milk so produced comes to rest within the state, any sale, within the state by a licensed milk dealer required by this chapter to be licensed, or any milk purchased from the producer at a price lower than that required to be paid for milk produced within the state purchased under similar conditions is unlawful.

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501.18 Law declared not applicable to interstate commerce.—No provision of this chapter shall apply or be construed to apply to foreign or interstate commerce except in so far as the same may be effective pursuant to the United States Constitution and to the laws of the United States enacted pursuant thereto.

APPENDIX "B"

Pertinent Orders of the Florida Milk Commission

OFFICIAL ORDER 220-6.01 Definitions.

(1) Class I milk—All fluid milk or milk products sold in fluid form with the exception of buttermilk, chocolate drink and cream. For the purpose of calculating settlement by distributors or producer-distributors to producers for skim milk and fortified skim, the total sales in gallons of these products shall be multiplied by ninety-five per cent (95%) and added to all other sales of Class I milk.

(2) Class II—All skim milk and butterfat:

(a) Used to produce acidophilus milk, buttermilk, chocolate drink, half and half, light cream, heavy cream and sour cream, and

(b) Contained in inventories in the form of milk products designated as Class I milk on hand at the end of each month and accounting period;

(c) In total shrinkage or skim milk and butterfat, respectively, such shrinkage to be prorated to producer milk and other source milk received in the form of fluid milk or skim milk: provided, that Class II classification of shrinkage prorated to skim and butterfat, respectively, in producer milk shall not exceed two per cent (2%) of skim and butterfat in producer milk.

(3) Class III—All skim milk and butterfat:

(a) Used to produce any product other than those specified in subsections (1) and (2);

(b) That portion of fortified milk or skim milk not classified as Class I milk.

(c) All skim milk and butterfat to be classified shall be classified as Class I milk, unless the distributor who first receives such skim milk and butterfat establishes to the satisfaction of the Commission administrator that such skim milk and butterfat should be classified otherwise. Any skim milk or butterfat shall be reclassified if verification by the Commission administrator discloses that the original classification was incorrect.

(4) Class IV—All milk the skim portion of which is

(a) Disposed of for fertilizer or livestock feed, and

(b) Dumped after such prior notification as the Commission administrator may require.

OFFICIAL ORDER 220-6.08 (Sometimes called Base Order)

(6) BASE PERCENTAGE; COMPUTATION AND APPLICATION.

(a) During the base fixing period, a base percentage shall be determined for each producer by calculating the ratio of the milk delivered by each producer to the total milk delivered by all producers for the entire base fixing period, which percentage is referred to herein as "earned base." This computation shall be made immediately following the close of the base fixing period, and within thirty (30) days thereafter, each producer shall be notified by mail of his base percentage and the base percentage of all other producers participating in that particular base. During this period, each plant shall supply the local Deputy Administrator with a summary of its base computations. The producer notification must illustrate how the base percentage for the producer concerned has been determined.

1. The base percentage earned by each producer shall be applied to the total number of gallons of milk utilized in Class I channels by each distributor and producer-distributor to determine the number of gallons of milk for which the producer must be paid at the Class I price fixed by the Commission. In case a producer fails to produce the amount of milk that his "earned base" entitles him to, in Class I channels, such deficit must be reallocated to the other "earned base" producers in proportion to their "earned bases", and the Class I price paid for the milk so reallocated.

2. The method outlined above for computing allocations to Class I utilization shall be followed in computing allocations for all other classes.

3. First allocation of a producer's deliveries shall be to class I utilization, with allocation continued thereafter in descending order of price through Class IV classification. The balance of

any producer's production after the above allocations may then be placed in the lowest price classification.

4. In computing Class I sales to be allocated to producers, no adjustment shall be made for milk received by distributors and/or producer-distributors from sources other than "earned base" producers.

5. In computing milk utilization to be allocated to producers, milk transferred or diverted shall be classified and allocated according to its final utilization.